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7
8 **BEFORE THE**
DEPARTMENT OF CONSUMER AFFAIRS
9 **FOR THE BUREAU OF AUTOMOTIVE REPAIR**
STATE OF CALIFORNIA

10
11 In the Matter of the Accusation Against:

Case No.

12 **GURNUR INTERNATIONAL**
13 **CORPORATION**
14 **DOING BUSINESS AS**
15 **GIC GERMAN AUTO HAUS**
3725 San Leandro Street
Oakland, California 94601

A C C U S A T I O N

77/05-53

16 Automotive Repair Dealer Registration

No. AL 136179
Smog Check Station License No. RL 136179
17 Official Brake Station License No. BL 136179A
18 Official Lamp Station License No. LL 136179A

19 and

20 **MUSTAFA OZDEN**
3400 Richmond Parkway, No. 3718
Richmond, California 94806

21 Advanced Emission Specialist Technician
22 License No. EA 134514
Brake Adjuster License No. JC 134514C
23 Lamp Adjuster License No. RY 134514A

24 Respondents.

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26 Richard Ross ("Complainant") alleges:

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PARTIES

1. Complainant brings this Accusation solely in his official capacity as the Chief of the Bureau of Automotive Repair ("Bureau"), Department of Consumer Affairs.

Automotive Repair Dealer Registration

2. On or about November 24, 1987, the Bureau issued Automotive Repair Dealer Registration Number AL 136179 ("registration") to Gurnur International Corporation, doing business as GIC German Auto Haus ("Respondent Gurnur"). The registration will expire on November 30, 2005, unless renewed.

Smog Check Station License

3. On or about January 20, 1998, the Bureau issued Smog Check Station License Number RL 136179 ("station license") to Respondent Gurnur. The station license will expire on November 30, 2005, unless renewed.

Official Brake Station License

4. On or about March 11, 1993, the Bureau issued Official Brake Station License Number BL 136179, classification A ("brake station license") to Respondent Gurnur. The brake station license will expire on November 30, 2005, unless renewed.

Official Lamp Station License

5. On or about March 8, 1993, the Bureau issued Official Lamp Station License Number LL 136179, classification A ("lamp station license") to Respondent Gurnur. The lamp station license will expire on November 30, 2005, unless renewed.

Advanced Emission Specialist Technician License

6. On or about November 14, 2001, the Bureau issued Advanced Emission Specialist Technician License Number EA 134514 ("technician license") to Mustafa Ozden ("Respondent Ozden"). The technician license was in full force and effect at all times relevant to the charges brought herein and will expire on January 31, 2006, unless renewed.

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1 **Brake Adjuster License**

2 7. On or about March 6, 2001, the Bureau issued Brake Adjuster License
3 Number JC 134514C ("adjuster license") to Respondent Ozden. The adjuster license expired on
4 January 31, 2005, and has not been renewed.

5 **Lamp Adjuster License**

6 ~~8. On or about December 28, 2000, the Bureau issued Lamp Adjuster~~
7 License Number RY 134514A ("adjuster license") to Respondent Ozden. The adjuster license
8 expired on January 31, 2005, and has not been renewed.

9 **STATUTORY AND REGULATORY PROVISIONS**

10 9. Section 9884.7 of the Business and Professions Code (Code) states, in
11 pertinent part:

12 (a) The director, where the automotive repair dealer cannot show there
13 was a bona fide error, may refuse to validate, or may invalidate temporarily or
14 permanently, the registration of an automotive repair dealer for any of the
15 following acts or omissions related to the conduct of the business of the
 automotive repair dealer, which are done by the automotive repair dealer or any
 automotive technician, employee, partner, officer, or member of the automotive
 repair dealer.

16 (1) Making or authorizing in any manner or by any means whatever any
17 statement written or oral which is untrue or misleading, and which is known, or
18 which by the exercise of reasonable care should be known, to be untrue or
 misleading.

19 (2) Causing or allowing a customer to sign any work order which does not
 state the repairs requested by the customer.

20 (4) Any other conduct which constitutes fraud.

21 (6) Failure in any material respect to comply with the provisions of this
22 chapter [the Automotive Repair Act (Code section 9880, et seq.)] or regulations
 adopted pursuant to it.

23 (b) Except as provided for in subdivision (c), if an automotive repair
24 dealer operates more than one place of business in this state, the director pursuant
25 to subdivision (a) shall only refuse to validate, or shall only invalidate temporarily
26 or permanently the registration of the specific place of business which has
 violated any of the provisions of this chapter. This violation, or action by the
 director, shall not affect in any manner the right of the automotive repair dealer to
 operate his or her other places of business.

27 (c) Notwithstanding subdivision (b), the director may refuse to validate, or
28 may invalidate temporarily or permanently, the registration for all places of
 business operated in this state by an automotive repair dealer upon a finding that

1 the automotive repair dealer has, or is, engaged in a course of repeated and willful
2 violations of this chapter, or regulations adopted pursuant to it.

3 10. Code section 9884.9 states, in pertinent part:

4 (a) The automotive repair dealer shall give to the customer a written
5 estimated price for labor and parts necessary for a specific job. No work shall be
6 done and no charges shall accrue before authorization to proceed is obtained from
7 the customer. No charge shall be made for work done or parts supplied in excess
8 of the estimated price without the oral or written consent of the customer that
9 shall be obtained at some time after it is determined that the estimated price is
10 insufficient and before the work not estimated is done or the parts not estimated
11 are supplied. Written consent or authorization for an increase in the original
12 estimated price may be provided by electronic mail or facsimile transmission from
13 the customer. The bureau may specify in regulation the procedures to be followed
14 by an automotive repair dealer when an authorization or consent for an increase in
15 the original estimated price is provided by electronic mail or facsimile
16 transmission. If that consent is oral, the dealer shall make a notation on the work
17 order of the date, time, name of person authorizing the additional repairs and
18 telephone number called, if any, together with a specification of the additional
19 parts and labor and the total additional cost, and shall do either of the following:

12 (1) Make a notation on the invoice of the same facts set forth in the
13 notation on the work order .

14 (2) Upon completion of repairs, obtain the customer's signature or initials
15 to an acknowledgment of notice and consent, if there is an oral consent of the
16 customer to additional repairs, in the following language:

16 I acknowledge notice and oral approval of an increase in the original
17 estimated price.

18 _____
(signature or initials)

19 Nothing in this section shall be construed as requiring an automotive
20 repair dealer to give a written estimated price if the dealer does not agree to
21 perform the requested repair.

21 11. Code section 9884.13 provides, in pertinent part, that the expiration of a
22 valid registration shall not deprive the Director of jurisdiction to proceed with a disciplinary
23 proceeding against an automotive repair dealer or to render a decision invalidating a registration
24 temporarily or permanently.

25 12. Code section 9889.1 provides, in pertinent part, that the Director may
26 suspend or revoke any license issued under Articles 5 and 6 (commencing with Code section
27 9887.1) of the Automotive Repair Act.

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1 13. Code section 9889.7 provides, in pertinent part, that the expiration or
2 suspension of a license by operation of law or by order or decision of the Director or a court of
3 law, or the voluntary surrender of a license shall not deprive the Director of jurisdiction to
4 proceed with any disciplinary proceedings.

5 14. Code section 9889.9 states:

6 When any license has been revoked or suspended following a
7 ~~hearing under the provisions of this article, any additional license issued under~~
8 ~~Articles 5 and 6 of this chapter in the name of the licensee may be likewise~~
9 ~~revoked or suspended by the director.~~

10 15. Code section 9889.3 states, in pertinent part:

11 The director may suspend, revoke, or take other disciplinary action against
12 a license as provided in this article [Article 7 (commencing with Code section
13 9889.1) of the Automotive Repair Act] if the licensee or any partner, officer, or
14 director thereof:

15 (a) Violates any section of the Code which relates to his or her licensed
16 activities.

17 (c) Violates any of the regulations promulgated by the director pursuant to
18 this chapter [the Automotive Repair Act].

19 (d) Commits any act involving dishonesty, fraud, or deceit whereby
20 another is injured.

21 (h) Violates or attempts to violate the provisions of this chapter relating to
22 the particular activity for which he or she is licensed.

23 16. Code section 9889.16 states:

24 Whenever a licensed adjuster in a licensed station upon an inspection or
25 after an adjustment, made in conformity with the instructions of the bureau
26 determines that the lamps or the brakes upon any vehicle conform with the
27 requirements of the Vehicle Code, he shall, when requested by the owner or driver
28 of the vehicle, issue a certificate of adjustment on a form prescribed by the
director, which certificate shall contain the date of issuance, the make and
registration number of the vehicle, the name of the owner of the vehicle, and the
official license of the station.

29 17. Code section 9889.22 states:

30 The willful making of any false statement or entry with regard to a
31 material matter in any oath, affidavit, certificate of compliance or noncompliance,
32 or application form which is required by this chapter [the Automotive Repair Act]
33 or Chapter 5 (commencing with Section 44000) of Part 5 of Division 26 of the

1 Health and Safety Code constitutes perjury and is punishable as provided in the
2 Penal Code.

3 18. California Code of Regulations, title 16, section 3305 states, in pertinent
4 part:

5 (a) Performance Standards. All adjusting, inspecting, servicing, and
6 repairing of brake systems and lamp systems shall be performed in official
7 stations in accordance with current standards, specifications, instructions, and
8 directives issued by the bureau and by the manufacturer of the device or vehicle.

9 19. California Code of Regulations, title 16, section 3316 states, in pertinent
10 part:

11 (d)(2) Inspection of the Entire Lighting System. Where all of the lamps,
12 lighting equipment, and related electrical systems on a vehicle have been
13 inspected and found in compliance with all requirements of the Vehicle Code and
14 bureau regulations, the certificate shall certify that the entire system meets all such
15 requirements.

16 20. California Code of Regulations, title 16, section 3316 states, in pertinent
17 part:

18 (c)(2) Inspection of the Entire Brake System. Where the entire brake
19 system on any vehicle has been inspected or tested and found in compliance with
20 all requirements of the Vehicle Code and bureau regulations, and the vehicle has
21 been road-tested, the certificate shall certify that the entire system meets all such
22 requirements.

23 21. Code section 477 provides, in pertinent part, that "Board" includes
24 "bureau," "commission," "committee," "department," "division," "examining committee,"
25 "program," and "agency." "License" includes certificate, registration or other means to engage in
26 a business or profession regulated by the Code.

27 22. Code section 125.3 provides, in pertinent part, that a board may request
28 the administrative law judge to direct a licentiate found to have committed a violation or
violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
and enforcement of the case.

29 UNDERCOVER OPERATION NO. 1 - 1996 FORD CROWN VICTORIA

30 23. On or about October 28, 2003, Paramjit Justin Gir ("operator") from
Veteran's Cab Company drove a Bureau documented 1996 Ford Crown Victoria, California

License No. 6U00775, to Respondent Gurnur's facility for brake and lamp inspections. The rear license plate lights were inoperable, the left headlight assembly was misadjusted outward, and the right rear tail light lens was cracked. The operator spoke with a male employee of Respondent Gurnur, later identified as Bulent E. Atayola. Atayola was not a licensed brake and lamp adjuster; however, he performed the inspections. The vehicle was not moved or test driven during the inspection. Atayola told the operator to replace the rear license plate bulbs and return for a certificate. Later that day, after replacing the light bulbs in the rear license plate the operator returned to Respondent Gurnur's facility. The operator signed the invoice dated October 28, 2003, and was provided with a copy of the document. Atayola signed and issued Brake Certificate No. 1888843 and Lamp Certificate No. 1889142. Respondent Ozden, who is the only licensed adjuster employed at Respondent Gurnur's facility, was present during the entire inspection process.

24. The Bureau reinspected the vehicle. The inspection revealed that the wheels had not been removed, making it impossible for a proper brake inspection to have occurred. The left headlight remained misadjusted outward. The headlights had not been aimed or adjusted.

FIRST CAUSE FOR DISCIPLINE

(Misleading Statements)

25. Respondent Gurnur has subjected its registration to discipline under Code section 9884.7, subdivision (a)(1), in that on or about October 28, 2003, it made statements which it knew or which by the exercise of reasonable care should have been known, to be untrue or misleading, as follows:

a. Respondent Gurnur allowed the issuance of Brake Certificate No. BA-1888843 certifying that the brakes were satisfactory when, in fact, the brakes had not been inspected.

b. Respondent Gurnur allowed the issuance of Lamp Certificate No. LA-1889142, certifying that the headlights had been aimed and adjusted when, in fact, the left headlight remained misadjusted outward.

1 c. Respondent Gurnur allowed the issuance of Brake Certificate No.
2 BA-1888843 and Lamp Certificate No. LA-1889142, certifying that the vehicle's brake and lamp
3 systems had been inspected by a licensed brake and lamp adjuster when, in fact, Bulent E.
4 Atayola, an unlicensed person, performed the inspections and signed and issued the certificates.

5 d. Respondent Gurnur falsely represented on Brake Certificate No.
6 BA-1888843 that the vehicle was equipped with air brakes when, in fact, the vehicle is equipped
7 with power assisted hydraulic brakes.

8 e. Respondent Gurnur falsely represented on Lamp Certificate No.
9 LA-1889142 that the vehicle was equipped with lighting equipment not on this vehicle.

10 **SECOND CAUSE FOR DISCIPLINE**

11 **(Invoice Requirements)**

12 26. Respondent Gurnur has subjected its registration to discipline under Code
13 section 9884.7, subdivision (a)(2), in that on or about October 28, 2003, it allowed the operator
14 to sign the invoice dated October 28, 2003, that did not state the repairs requested by the
15 operator.

16 **THIRD CAUSE FOR DISCIPLINE**

17 **(Fraud)**

18 27. Respondent Gurnur has subjected its registration to discipline under Code
19 section 9884.7, subdivision (a)(4), in that on or about October 28, 2003, it committed fraud by
20 allowing the issuance of Brake Certificate No. BA-1888843 and Lamp Certificate No.
21 LA-1889142, certifying that the brake and lamp systems were satisfactory when, in fact, the
22 vehicle's brake system had not been inspected and the lamp system had not been adjusted or
23 aimed.

24 **FOURTH CAUSE FOR DISCIPLINE**

25 **(Failure to Comply with Code)**

26 28. Respondent Gurnur has subjected its registration to discipline under Code
27 section 9884.7, subdivision (a)(6), in that on or about October 28, 2003, it failed to comply with
28 provisions of Code sections, as follows:

1 a. Section 9884.9 subdivision (a): Respondent Gurnur failed to provide the
2 operator with a written estimated price for parts and labor for a specific job.

3 b. Section 9889.16

4 i. Respondent Gurnur allowed Brake Certificate No. BA-1888843 to
5 be issued certifying that the brakes were satisfactory when, in fact, the brakes had not been
6 inspected.

7 ii. Respondent Gurnur allowed Lamp Certificate No. LA-1889142 to
8 be issued certifying that the headlights had been adjusted and aimed when, in fact, the left
9 headlight remained misadjusted outward.

10 c. Section 9889.22

11 i. Respondent Gurnur falsely represented on Brake Certificate No.
12 BA-1888843 that the brakes were satisfactory when, in fact, the brakes had not been inspected.

13 d. Respondent Gurnur falsely represented on Lamp Certificate No. LA-
14 1889142 that the headlights had been adjusted and aimed when, in fact, the left headlight
15 remained misadjusted outward.

16 **FIFTH CAUSE FOR DISCIPLINE**

17 **(Failure to Comply with Regulations)**

18 29. Respondent Gurnur has subjected its registration to discipline under Code
19 section 9884.7, subdivision (a)(6), in that on October 28, 2003, it failed to comply with the
20 following sections of the California Code of Regulations, title 16:

21 a. Section 3305, subdivision (a): Respondent Gurnur failed to perform the
22 brake and lamp inspections in accordance with current standards, specifications, instructions, and
23 directives issued by the Bureau.

24 b. Section 3316, subdivision (d)(2): Respondent Gurnur failed to inspect
25 the entire lighting system of the vehicle.

26 c. Section 3321, subdivision (c)(2): Respondent Gurnur failed to inspect
27 the entire brake system of the vehicle.

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1 NINTH CAUSE FOR DISCIPLINE

2 (Acts Involving Dishonesty, Fraud, or Deceit)

3 33. Respondent Ozden has subjected his brake and lamp adjuster licenses to
4 discipline under Code section 9889.3. subdivision (d), in that on or about October 28, 2003, he
5 committed acts involving dishonesty, fraud, or deceit, by informing Bureau representatives that
6 he had performed the brake and lamp inspections of the 1996 Ford Crown Victoria and that he
7 had signed and issued the corresponding certificates when, in fact, he had not performed those
8 inspections and had not signed and issued the certificates.

9 TENTH CAUSE FOR DISCIPLINE

10 (Aiding and Abetting Unlicensed Activity)

11 34. Respondent Ozden has subjected his brake and lamp adjuster licenses to
12 discipline under Code sections 9889.3, subdivision (f), in that on or about October 28, 2003,
13 Respondent Ozden aided and abetted Bulent E. Atayola, an unlicensed person, to evade the
14 provisions of the chapter by allowing him to perform a brake and lamp inspection on the 1996
15 Ford Crown Victoria.

16 ELEVENTH CAUSE FOR DISCIPLINE

17 (Violations Relating to Licensed Activities)

18 35. Respondent Ozden has subjected his brake and lamp adjuster licenses to
19 discipline under Code sections 9889.3, subdivisions (a) and (h), in that on October 28, 2003, he
20 committed acts in violation of the Code relating to his licensed activities, as set forth in
21 paragraphs 33 and 34, above.

22 UNDERCOVER OPERATION NO. 2 - 1993 FORD CROWN VICTORIA

23 36. On or about October 28, 2003, Bureau undercover operator Enrique Lopez
24 drove a 1993 Ford Crown Victoria, California License Plate No. 5U96585, owned by Friendly
25 Cab Company to Respondent Gurnur's facility for brake and lamp inspections. The Bureau had
26 previously documented the vehicle's brake and lamp systems. The left headlight assembly was
27 misadjusted outward. The operator spoke with Bulent E. Atayola, an employee of Respondent
28 Gurnur. Atayola was not a licensed brake and lamp adjuster; however, he performed the

1 inspection. The vehicle was not moved or test driven during the inspection. The operator signed
2 the invoice dated October 28, 2003, and was provided with a copy of the document. Atayola
3 signed and issued Brake Certificate No. 1888844 and Lamp Certificate No. 1889143.
4 Respondent Ozden, who is the only licensed adjuster employed at Respondent Gurnur's facility,
5 was present during the entire inspection process.

6 37. The Bureau reinspected the vehicle. The inspection revealed that the
7 wheels had not been removed, making it impossible for a proper brake inspection to have
8 occurred. The left headlight remained misadjusted outward. The headlights had not been aimed
9 or adjusted.

10 TWELFTH CAUSE FOR DISCIPLINE

11 (Misleading Statements)

12 38. Respondent Gurnur has subjected its registration to discipline under Code
13 section 9884.7, subdivision (a)(1), in that on or about October 28, 2003, it made statements
14 which it knew or which by the exercise of reasonable care should have been known to be untrue
15 or misleading, as follows:

16 a. Respondent Gurnur allowed the issuance of Brake Certificate No.
17 BA-1888844, certifying that the brakes were satisfactory when, in fact, the brakes had not been
18 inspected.

19 b. Respondent Gurnur allowed the issuance of Lamp Certificate No.
20 LA-1889143, certifying that the headlights had been aimed and adjusted when, in fact, the left
21 headlight remained misadjusted outward.

22 c. Respondent Gurnur allowed the issuance of Brake Certificate No.
23 BA-1888844 and Lamp Certificate No. LA-1889143, certifying that the vehicle's brake and lamp
24 systems had been inspected by a licensed brake and lamp adjuster when, in fact, Bulent E.
25 Atayola, an unlicensed person, performed the inspections and signed and issued the certificates.

26 d. Respondent Gurnur falsely represented on Brake Certificate No.
27 BA-1888844 that the vehicle was equipped with air brakes when, in fact, the vehicle is equipped
28 with power assisted hydraulic brakes.

1 e. Respondent Gurnur falsely represented on Brake Certificate No.
2 BA-1888844 that the brake shoes and lining had been inspected when, in fact, the brake system
3 had not been inspected.

4 f. Respondent Gurnur falsely represented on Lamp Certificate No.
5 LA-1889143 that the vehicle was equipped with lighting equipment not on this vehicle.

6 **THIRTEENTH CAUSE FOR DISCIPLINE**

7 **(Invoice Requirements)**

8 39. Respondent Gurnur has subjected its registration to discipline under Code
9 section 9884.7, subdivision (a)(2), in that on or about October 28, 2003, it allowed the operator
10 to sign the invoice dated October 28, 2003, that did not state the repairs requested by the
11 operator.

12 **FOURTEENTH CAUSE FOR DISCIPLINE**

13 **(Fraud)**

14 40. Respondent Gurnur has subjected its registration to discipline under Code
15 section 9884.7, subdivision (a)(4), in that on or about October 28, 2003, it committed fraud by
16 allowing the issuance of Brake Certificate No. BA-1888844 and Lamp Certificate No.
17 LA-1889143, certifying that the brake and lamp systems were satisfactory when, in fact, the
18 vehicle's brake system had not been inspected and the lamp system had not been adjusted or
19 aimed.

20 **FIFTEENTH CAUSE FOR DISCIPLINE**

21 **(Failure to Comply with Code)**

22 41. Respondent Gurnur has subjected its registration to discipline under Code
23 section 9884.7, subdivision (a)(6), in that on or about October 28, 2003, it failed to comply with
24 provisions of Code sections, as follows:

25 a. **Section 9884.9 subdivision (a):** Respondent Gurnur failed to provide the
26 operator with a written estimated price for parts and labor for a specific job.

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1 b. Section 9889.16

2 i. Respondent Gurnur allowed Brake Certificate No. BA-1888844 to
3 be issued, certifying that the brakes were satisfactory when, in fact, the brakes had not been
4 inspected.

5 ii. Respondent Gurnur allowed Lamp Certificate No. LA-1889143 to
6 be issued, certifying that the headlights had been adjusted and aimed when, in fact, the left
7 headlight remained misadjusted outward.

8 c. Section 9889.22

9 i. Respondent Gurnur falsely represented on Brake Certificate No.
10 BA-1888844 that the brakes were satisfactory when, in fact, the brakes had not been inspected.

11 d. Respondent Gurnur falsely represented on Lamp Certificate No.
12 LA-1889143 that the headlights had been adjusted and aimed when, in fact, the left headlight
13 remained misadjusted outward.

14 SIXTEENTH CAUSE FOR DISCIPLINE

15 **(Failure to Comply with Regulations)**

16 42. Respondent Gurnur has subjected its registration to discipline under Code
17 section 9884.7, subdivision (a)(6), in that on October 28, 2003, it failed to comply with the
18 following sections of the California Code of Regulations, title 16:

19 a. Section 3305, subdivision (a): Respondent Gurnur failed to perform the
20 brake and lamp inspections in accordance with current standards, specifications, instructions, and
21 directives issued by the Bureau.

22 b. Section 3316, subdivision (d)(2): Respondent Gurnur failed to inspect
23 the entire lighting system of the vehicle.

24 c. Section 3321, subdivision (c)(2): Respondent Gurnur failed to inspect
25 the entire brake system of the vehicle.

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1 SEVENTEENTH CAUSE FOR DISCIPLINE

2 (Aiding and Abetting Unlicensed Activity)

3 43. Respondent Gurnur has subjected its official brake and lamp station
4 licenses to discipline under Code sections 9889.3, subdivision (f), in that on or about October 28,
5 2003, Respondent Gurnur aided and abetted Bulent E. Atayola, an unlicensed person, to evade
6 the provisions of the chapter by allowing him to perform a brake and lamp inspection on the
7 1993 Ford Crown Victoria.

8 EIGHTEENTH CAUSE FOR DISCIPLINE

9 (Acts Involving Dishonesty, Fraud, or Deceit)

10 44. Respondent Gurnur has subjected its official brake and lamp station
11 licenses to discipline under Code section 9889.3, subdivision (d), in that on or about October 28,
12 2003, it committed acts involving dishonesty, fraud, or deceit, as follows:

13 a. Respondent Gurnur allowed the issuance of Brake Certificate No.
14 BA-1888844 and Lamp Certificate No. LA-1889143, certifying that the brake and lamp systems
15 on the vehicle had been inspected when, in fact, the brakes had not been inspected and the left
16 headlight was misadjusted outward.

17 b. Respondent Gurnur falsely represented on Brake Certificate No.
18 BA-1888844 and Lamp Certificate No. LA-1889143 that the vehicle had been inspected by a
19 licensed adjuster when, in fact, Bulent E. Atayola, an unlicensed person, performed those
20 inspections.

21 NINETEENTH CAUSE FOR DISCIPLINE

22 (Violations Relating to Licensed Activities)

23 45. Respondent Gurnur has subjected its official brake and lamp station
24 licenses to discipline under Code sections 9889.3, subdivisions (a), (c), and (h), in that on
25 October 28, 2003, he committed acts in violation of the Code and the California Code of
26 Regulations, title 16, relating to Respondent Gurnur's licensed activities, as set forth in
27 paragraphs 41 through 44, above.

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1 **TWENTIETH CAUSE FOR DISCIPLINE**

2 **(Failure to Comply with Chapter Requirements)**

3 46. Respondent Ozden has subjected his brake and lamp adjuster licenses to
4 discipline under Code section 9889.3. subdivision (d), in that on or about October 28, 2003, he
5 committed acts involving dishonesty, fraud, or deceit, by informing Bureau representatives that
6 he had performed the brake and lamp inspections of the 1993 Ford Crown Victoria and that he
7 had signed and issued the corresponding certificates when, in fact, he had not performed those
8 inspections and had not signed and issued the certificates.

9 **TWENTY-FIRST CAUSE FOR DISCIPLINE**

10 **(Aiding and Abetting Unlicensed Activity)**

11 47. Respondent Ozden has subjected his brake and lamp adjuster licenses to
12 discipline under Code sections 9889.3, subdivision (f), in that on or about October 28, 2003,
13 Respondent Ozden aided and abetted Bulent E. Atayola, an unlicensed person, to evade the
14 provisions of the chapter by allowing him to perform a brake and lamp inspection on the 1993
15 Ford Crown Victoria.

16 **TWENTY-SECOND CAUSE FOR DISCIPLINE**

17 **(Violations Relating to Licensed Activities)**

18 48. Respondent Ozden has subjected his brake and lamp adjuster licenses to
19 discipline under Code sections 9889.3, subdivisions (a) and (h), in that on October 28, 2003, he
20 committed acts in violation of the Code relating to his licensed activities, as set forth in
21 paragraphs 46 and 47, above.

22 **UNDERCOVER OPERATION NO. 3 - 1996 FORD CROWN VICTORIA**

23 49. On or about October 28, 2003, Paramjit Justin Gir who was acting as an
24 undercover operator ("operator") drove a 1993 Ford Crown Victoria, California License Plate
25 No. 6K01500, owned by Veteran's Cab Company, to Respondent Gurnur's facility for brake and
26 lamp inspections. The Bureau had previously documented the vehicle's brake and lamp systems.
27 The left headlight assembly was misadjusted outward. The operator spoke with Bulent E.
28 Atayola, an employee of Respondent Gurnur. Atayola was not a licensed brake and lamp

1 adjuster; however, he performed the inspections. The vehicle was not moved or test driven
2 during the inspection. The operator signed the invoice dated October 28, 2003, and was provided
3 with a copy of the document. Atayola signed and issued Brake Certificate No. 1888846 and
4 Lamp Certificate No. 1889145. Respondent Ozden, who is the only licensed adjuster employed
5 at Respondent Gurnur's facility, was present during the entire inspection process.

6 50. The Bureau reinspected the vehicle. The inspection revealed that the
7 wheels had not been removed, making it impossible for a proper brake inspection to have
8 occurred. The left headlight remained misadjusted outward. The headlights had not been aimed
9 or adjusted.

10 TWENTY-THIRD CAUSE FOR DISCIPLINE

11 (Misleading Statements)

12 51. Respondent Gurnur has subjected its registration to discipline under Code
13 section 9884.7, subdivision (a)(1), in that on or about October 28, 2003, it made statements
14 which it knew or which by the exercise of reasonable care should have been known to be untrue
15 or misleading, as follows:

16 a. Respondent Gurnur allowed the issuance of Brake Certificate No.
17 BA-1888846, certifying that the brakes were satisfactory when, in fact, the brakes had not been
18 inspected.

19 b. Respondent Gurnur allowed the issuance of Lamp Certificate No.
20 LA-1889145, certifying that the headlights had been aimed and adjusted when, in fact, the left
21 headlight remained misadjusted outward.

22 c. Respondent Gurnur allowed the issuance of Brake Certificate No.
23 BA-1888846 and Lamp Certificate No. LA-1889145, certifying that the vehicle's brake and lamp
24 systems had been inspected by a licensed brake and lamp adjuster when, in fact, Bulent E.
25 Atayola, an unlicensed person, performed the inspections and signed and issued the certificates.

26 d. Respondent Gurnur falsely represented on Brake Certificate No.
27 BA-1888846 that the vehicle was equipped with air brakes when, in fact, the vehicle is equipped
28 with power assisted hydraulic brakes.

1 e. Respondent Gurnur falsely represented on Brake Certificate No.
2 BA-1888846 that the brake shoes and lining had been inspected when, in fact, the brake system
3 had not been inspected.

4 f. Respondent Gurnur falsely represented on Lamp Certificate No.
5 LA-1889145 that the vehicle was equipped with lighting equipment not on this vehicle.

6 **TWENTY-FOURTH CAUSE FOR DISCIPLINE**

7 **(Invoice Requirements)**

8 52. Respondent Gurnur has subjected its registration to discipline under Code
9 section 9884.7, subdivision (a)(2), in that on or about October 28, 2003, it allowed the operator
10 to sign the invoice dated October 28, 2003, that did not state the repairs requested by the
11 operator.

12 **TWENTY-FIFTH CAUSE FOR DISCIPLINE**

13 **(Fraud)**

14 53. Respondent Gurnur has subjected its registration to discipline under Code
15 section 9884.7, subdivision (a)(4), in that on or about October 28, 2003, it committed fraud by
16 allowing the issuance of Brake Certificate No. BA-1888846 and Lamp Certificate No.
17 LA-1889145 certifying that the brake and lamp systems were satisfactory when, in fact, the
18 vehicle's brake system had not been inspected and the lamp system had not been adjusted or
19 aimed.

20 **TWENTY-SIXTH CAUSE FOR DISCIPLINE**

21 **(Failure to Comply with Code)**

22 54. Respondent Gurnur has subjected its registration to discipline under Code
23 section 9884.7, subdivision (a)(6), in that on or about October 28, 2003, it failed to comply with
24 provisions of Code sections, as follows:

25 a. **Section 9884.9 subdivision (a):** Respondent Gurnur failed to provide the
26 operator with a written estimated price for parts and labor for a specific job.

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1 b. Section 9889.16

2 i. Respondent Gurnur allowed Brake Certificate No. BA-1888846 to
3 be issued, certifying that the brakes were satisfactory when, in fact, the brakes had not been
4 inspected.

5 ii. Respondent Gurnur allowed Lamp Certificate No. LA-1889145 to
6 be issued, certifying that the headlights had been adjusted and aimed when, in fact, the left
7 headlight remained misadjusted outward.

8 c. Section 9889.22

9 i. Respondent Gurnur falsely represented on Brake Certificate No.
10 BA-1888846 that the brakes were satisfactory when, in fact, the brakes had not been inspected.

11 d. Respondent Gurnur falsely represented on Lamp Certificate No.
12 LA-1889145 that the headlights had been adjusted and aimed when, in fact, the left headlight
13 remained misadjusted outward.

14 **TWENTY-SEVENTH CAUSE FOR DISCIPLINE**

15 **(Failure to Comply with Regulations)**

16 55. Respondent Gurnur has subjected its registration to discipline under Code
17 section 9884.7, subdivision (a)(6), in that on October 28, 2003, it failed to comply with the
18 following sections of the California Code of Regulations, title 16:

19 a. Section 3305, subdivision (a): Respondent Gurnur failed to perform the
20 brake and lamp inspections in accordance with current standards, specifications, instructions, and
21 directives issued by the Bureau.

22 b. Section 3316, subdivision (d)(2): Respondent Gurnur failed to inspect
23 the entire lighting system of the vehicle.

24 c. Section 3321, subdivision (c)(2): Respondent Gurnur failed to inspect
25 the entire brake system of the vehicle.

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1 **TWENTY-EIGHTH CAUSE FOR DISCIPLINE**

2 **(Aiding and Abetting Unlicensed Activity)**

3 56. Respondent Gurnur has subjected its official brake and lamp station
4 licenses to discipline under Code sections 9889.3, subdivision (f), in that on or about October 28,
5 2003, Respondent Gurnur aided and abetted Bulent E. Atayola, an unlicensed person, to evade
6 the provisions of the chapter by allowing him to perform a brake and lamp inspection on the
7 1996 Ford Crown Victoria.

8 **TWENTY-NINTH CAUSE FOR DISCIPLINE**

9 **(Acts Involving Dishonesty, Fraud, or Deceit)**

10 57. Respondent Gurnur has subjected its official brake and lamp station
11 licenses to discipline under Code section 9889.3, subdivision (d), in that on or about October 28,
12 2003, it committed acts involving dishonesty, fraud, or deceit, as follows:

13 a. Respondent Gurnur allowed the issuance of Brake Certificate No.
14 BA-1888846 and Lamp Certificate No. LA-1889145, certifying that the brake and lamp systems
15 on the vehicle had been inspected when, in fact, the brakes had not been inspected and the left
16 headlight was misadjusted outward.

17 b. Respondent Gurnur falsely represented on Brake Certificate No.
18 BA-1888846 and Lamp Certificate No. LA-1889145 that the vehicle had been inspected by a
19 licensed adjuster when, in fact, Bulent E. Atayola, an unlicensed person, performed those
20 inspections.

21 **THIRTIETH CAUSE FOR DISCIPLINE**

22 **(Violations Relating to Licensed Activities)**

23 58. Respondent Gurnur has subjected its official brake and lamp station
24 licenses to discipline under Code sections 9889.3, subdivisions (a), (c), and (h), in that on
25 October 28, 2003, he committed acts in violation of the Code and the California Code of
26 Regulations, title 16, relating to Respondent Gurnur's licensed activities, as set forth in
27 paragraphs 54 through 57, above.

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1 THIRTY-FIRST CAUSE FOR DISCIPLINE

2 (Acts Involving Dishonesty, Fraud, or Deceit)

3 59. Respondent Ozden has subjected his brake and lamp adjuster licenses to
4 discipline under Code section 9889.3, subdivision (d), in that on or about October 28, 2003, he
5 committed acts involving dishonesty, fraud, or deceit, by informing Bureau representatives that
6 he had performed the brake and lamp inspections on the 1996 Ford Crown Victoria and that he
7 had signed and issued the corresponding certificates when, in fact, he had not performed those
8 inspections and had not signed and issued the certificates.

9 THIRTY-SECOND CAUSE FOR DISCIPLINE

10 (Aiding and Abetting Unlicensed Activity)

11 60. Respondent Ozden has subjected his brake and lamp adjuster licenses to
12 discipline under Code sections 9889.3, subdivision (f), in that on or about October 28, 2003,
13 Respondent Ozden aided and abetted Bulent E. Atayola, an unlicensed person, to evade the
14 provisions of the chapter by allowing him to perform a brake and lamp inspection on the 1996
15 Ford Crown Victoria.

16 THIRTY-THIRD CAUSE FOR DISCIPLINE

17 (Violations Relating to Licensed Activities)

18 61. Respondent Ozden has subjected his brake and lamp adjuster licenses to
19 discipline under Code sections 9889.3, subdivisions (a) and (h), in that on October 28, 2003, he
20 committed acts in violation of the Code relating to his licensed activities, as set forth in
21 paragraphs 59 and 60, above.

22 OTHER MATTERS

23 62. Under Code section 9884.7, subdivision (c), the director may invalidate
24 temporarily or permanently, the registrations for all places of business operated in this state by
25 Gurnur International Corporation doing business as GIC German Auto Haus upon a finding that
26 it has, or is, engaged in a course of repeated and willful violations of the laws and regulations
27 pertaining to an automotive repair dealer.

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1 63. Under Health and Safety Code section 44072.8, if Smog Check Station
2 License Number RL 136179 issued to Gurnur International Corporation is revoked or suspended,
3 any additional license issued under this chapter in the name of said licensee may be likewise
4 revoked or suspended by the director.

5 64. Under Code section 9889.9, if Official Brake Station License Number
6 BL 136179 issued to Gurnur International Corporation is revoked or suspended, any additional
7 license issued under Articles 5 and 6 of this chapter in the name of said licensee may be likewise
8 revoked or suspended by the director.

9 65. Under Code section 9889.9, if Official Lamp Station License Number
10 LL 136179 issued to Gurnur International Corporation is revoked or suspended, any additional
11 license issued under Articles 5 and 6 of this chapter in the name of said licensee may be likewise
12 revoked or suspended by the director.

13 66. Under Health and Safety Code section 44072.8, if Advanced Emission
14 Specialist Technician License Number EA 010814 issued to Edward Lay is revoked or
15 suspended, any additional license issued under this chapter in the name of said licensee may be
16 likewise revoked or suspended by the director.

17 67. Under Code section 9889.9, if Lamp Adjuster License Number
18 JC 134514C issued to Mustafa Ozden is revoked or suspended, any additional license issued
19 under Articles 5 and 6 of this chapter in the name of said licensee may be likewise revoked or
20 suspended by the director.

21 68. Under Code section 9889.9, if Brake Adjuster License Number
22 RY 134514A issued to Mustafa Ozden is revoked or suspended, any additional license issued
23 under Articles 5 and 6 of this chapter in the name of said licensee may be likewise revoked or
24 suspended by the director.

25 PRAYER

26 WHEREFORE, Complainant requests that a hearing be held on the matters
27 herein alleged, and that following the hearing, the Director of Consumer Affairs issue a decision:
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- 1 1. Temporarily or permanently invalidating Automotive Repair Dealer
2 Registration Number AL 136179 issued to Gurnur International Corporation, doing business as
3 GIC German Auto Haus;
- 4 2. Temporarily or permanently invaliding any other automotive repair dealer
5 registration issued to Gurnur International Corporation, doing business as GIC German Auto
6 Haus;
- 7 3. Revoking or suspending Smog Check Station License Number
8 RL 136179 issued to Gurnur International Corporation, doing business as GIC German Auto
9 Haus;
- 10 4. Revoking or suspending any additional license issued under this chapter in
11 the name of Gurnur International Corporation, doing business as GIC German Auto Haus;
- 12 5. Revoking or suspending Official Brake Station License Number
13 BL 136179A issued to Gurnur International Corporation, doing business as GIC German Auto
14 Haus.
- 15 6. Revoking or suspending any additional license issued under this chapter in
16 the name of Gurnur International Corporation, doing business as GIC German Auto Haus;
- 17 7. Revoking or suspending Official Lamp Station License Number
18 LL 136179A issued to Gurnur International Corporation, doing business as GIC German Auto
19 Haus.
- 20 8. Revoking or suspending any additional license issued under this chapter in
21 the name of Gurnur International Corporation, doing business as GIC German Auto Haus;
- 22 9. Revoking or suspending Advanced Emission Specialist Technician
23 License Number EA 134514 issued to Mustafa Ozden;
- 24 10. Revoking or suspending any additional license issued under this chapter in
25 the name of Mustafa Ozden;
- 26 11. Revoking or suspending Brake Adjuster License Number JC 134514C
27 issued to Mustafa Ozden;
- 28 ///

12. Revoking or suspending any additional license issued under this chapter in the name of Mustafa Ozden;

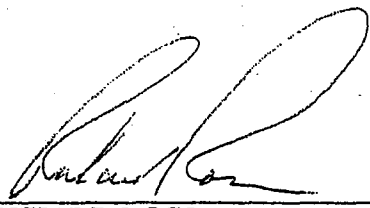
13. Revoking or suspending Lamp Adjuster License Number RY 134514A, issued to Mustafa Ozden.

14. Revoking or suspending any additional license issued under this chapter in the name of Mustafa Ozden;

15. Ordering Gurnur International Corporation and Mustafa Ozden to pay the Bureau of Automotive Repair the reasonable costs of the investigation and enforcement of this case, pursuant to Code section 125.3; and

16. Taking such other and further action as deemed necessary and proper.

DATED: 5/12/05


RICHARD ROSS
Chief
Bureau of Automotive Repair
Department of Consumer Affairs
State of California
Complainant